

MINUTES  
COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Tuesday, October 3, 2006

Division Two

**A112458 – The People v. Shane Swift.**

The abstract of judgment shall be amended to reflect restitution pursuant to section 1202.4, subdivision (f) in the amount of \$370. In all other regards, the judgment is affirmed. Richman, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication)

Division Three

**A113470 – In re Christopher B., a Person Coming Under the Juvenile Court Law. Humboldt County Department of Social Services v. Clarence B.**

The order terminating father's parental rights is affirmed. Parrilli, Acting P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication)

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Wednesday, October 4, 2006

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Margulies, J. and F. Abad, Deputy Clerk.

Presiding Justice Marchiano announced Justice Swager is unavailable for oral argument, Justice Swager conferenced the cases with the panel, and oral argument is taped for review. All the parties waived the presence of Justice Swager.

- A109671      People  
                 v.  
                 Victor Samuel Davis.  
Cause called and argued by Mark Christiansen, counsel for appellant, and Sharon Wooden, counsel for respondent. Cause ordered submitted.
- A112813      Megan Golden, a Minor, etc., et al.,  
                 v.  
                 Steve Ellis, et al.  
Cause called and argued by Albert Stoll, Jr., counsel for appellants, and Harvey Roberts, counsel for respondents. Cause ordered submitted.

Court recessed until 1:30 p.m.

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Wednesday, October 4, 2006

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., and F. Abad, Deputy Clerk.

Justice Marchiano announced Justice Swager is unavailable for oral argument, Justice Swager conferenced the cases with the panel, and oral argument is taped for review. All the parties waived the presence of Justice Swager.

- A111521 People,  
v.  
Rene C.  
Cause called and argued by Paul Kleven, counsel for appellant, and Ronald Niver, counsel for respondent. Cause ordered submitted.
- A111731 Carole Dawn Maloney, et al.,  
v.  
City of San Rafael, et al.  
Cause called and argued by Glenn Kabanuck, counsel for appellants, Sarah Leger, counsel for respondent City of San Rafael, and Kenneth Mellis, counsel for State of California. Cause ordered submitted.
- A107901 Joshua Reichek,  
A110873 v.  
Avi Stachenfeld;  
Michael J. Eggers.  
Cause called and argued by Claudia Ribet, counsel for appellant, Timothy F. O'Leary, counsel for respondent, and Chris Kuhner, counsel for Respondent appeared but did not argue. Cause ordered submitted.

Continued

Justice Margulies joined the bench for the last case on calendar.

A112137

Patrick Campbell, M.D.,

v.

Phillips & Cohen, LLP, et al.

Cause called and argued by David Rude, counsel for appellant, Ethan P. Schulman, counsel for respondents. Cause ordered submitted.

Court adjourned until October 5, 2006 at 9:00 a.m.

Wednesday, October 4, 2006 (continued)

Division Five

**A111618 – The Foundation for Taxpayer and Consumer Rights v. T-Mobile, U.S.A., Inc.**

The judgment is affirmed. Parties to bear their own costs. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication)

Thursday, October 5, 2006

Division One

**A112722 – In re Q.C., a Person Coming Under the Juvenile Court Law. Contra  
Costa County Children & Family Services Bureau v. Amber C.**

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for  
Publication)

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Thursday, October 5, 2006

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Stein, Acting P.J., Margulies, J. and P. Aguilar, Deputy Clerk.

Acting Presiding Justice Stein announced Justice Swager is unavailable for oral argument, Justice Swager conferenced the cases with the panel, and the oral argument session will be taped for review. All parties waive Justice Stein's presence.

A111847     Porteous, et al.,  
              v.  
              Porteous, et al.  
Cause called and argued by Joseph Hearst, counsel for appellants, and, Elliot Bien, counsel for respondents. Cause ordered submitted.

A112386     J. Dennis Wolfe,  
              v.  
              City of Fremont, et al.  
Cause called and argued by Peter N. Hagberg, counsel for appellant, and Scott Emblidge, counsel for respondents. Cause ordered submitted.

Court adjourned.

Thursday, October 5, 2006 ( continued)

Division Three

**A110449, A110450, A110451, A110463, A110651, and A110652 – In re Marriage Cases.**

For the reasons discussed herein, the judgments in *CCSF*, *Woo*, *Tyler* and *Clinton* are reversed. The judgments against CCF and the Fund in *Thomasson* (denoted *Campaign for California Families v. Newsom* on appeal) and *Proposition 22* are affirmed on the ground that the cases do not present justiciable controversies. All parties shall bear their own costs on appeal. McGuiness, P.J. I Concur: Parrilli, J. (See concurring opinion by Parrilli, J.) (See Concurring and Dissenting opinion of Kline, J. \*) (Certified for Publication)

Division Four

**A109993 – The People v. Juan Vasquez Garcia.**

By the Court: The petition for rehearing is denied. Ruvolo, P.J.

Division Five

**A115170 – In re Charles Lloyd Gay, on Habeas Corpus.**

The Court\*: Therefore, the petition for writ of habeas corpus is granted, and a writ of habeas corpus shall issue, to the extent that the notice of appeal filed on May 10, 2006 in *People v. Charles Lloyd Gay*, Humboldt County Superior Court Case No. CR05497S, is deemed constructively and timely filed. This decision shall be final as to this court immediately. (Cal. Rules of Court, rule 24(b)(3).) Pursuant to the parties' stipulation, the remittitur shall issue immediately. (Cal. Rules of Court, rule 26(c)(1).) \*Before Jones, P.J., Simons, J., and Bruiniers, J.\* (Not for Publication)

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\* Presiding Justice of the Court of Appeal, First Appellate District, Division Two, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

\* Judge of the Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.



Friday, October 6, 2006

Division One

**A108000 – People of the State of California v. Pastor Madero Pena.**

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication)

**A112886 – Anni Amberger-Warren v. City of Piedmont.**

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Certified for Publication)

Division Three

**A111052 – Maryland Casualty Company et al., v. State Farm Fire and Casualty Company et al.**

The judgment is affirmed. Maryland shall bear costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication)

**A110074 – Stop Loss Insurance Brokers, Inc., et al., v. Brown & Toland Medical Group.**

The judgment is affirmed. Respondent shall recover its costs on appeal. McGuiness, P.J. I Concur: Parrilli, J. (See concurring opinion by Pollak, J.) (Certified for Publication)

Tuesday, October 10, 2006

Division One

**A115259 – In re Michael L., a Minor, on Habeas Corpus.**

The Court:\*Therefore, the petition for writ of habeas corpus is granted to the extent that the notice of appeal dated July 6, 2006 in *In re Michael L.* (County of Contra Costa Superior Court, Juvenile Division No. J02-01759) is deemed constructively, timely filed. The County of Contra Costa Superior Court appeal clerk is directed to file Michael L.'s notice of appeal, dated July 6, 2006, a copy of which is enclosed with the superior court's copy of this opinion. The appeal clerk, upon filing of said notice of appeal, shall comply with the provisions of rule 30(c) of the California Rules of Court. This opinion is final for all purposes immediately upon filing, and the clerk of this court shall forthwith issue the remittitur. (See *Ng v. Superior Court* (1992) 4 Cal.4<sup>th</sup> 29, 34, fn. 1; Cal. Rules of Court, rule 26(c)(1).) \*Before Marchiano, P.J., Stein, J., and Margulies, J. (Not for Publication)

**A111220 – Janet MacKinnon v. Robert D. Teasdale, Jr.**

The order is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication)

Division Three

**A109735 and A112506 – In re Athena H. et al., Persons Coming Under the Juvenile Court Law. Department of Social Services for the County of Lake v. Jessica H. et al.; Cynthia H. et al., Objectors and Appellants.**

**A111434 – Department of Social Services for the County of Lake v. Jessica H.; Cynthia H. et al., Objectors and Appellants.**

**A112930 – In re Jessica H., on Habeas Corpus.**

**A115422 – In re Athena H., on Habeas Corpus.**

By the Court: At petitioner's request, the petition for a writ of habeas corpus, In re: Athena H., A115422, is consolidated with the previously consolidated appeals in docket numbers A112506, A109735, and A111434 and with the consolidated writ of habeas corpus in docket number A112930. This court's consideration of the request for judicial notice and this court's determination of whether to issue an order to show cause will be deferred until the issues on the appeal have been considered. Any real parties in interest who desire to file an informal opposition must do so on or before October 25, 2006. Petitioners' response, if any, may be filed on or before November 9, 2006. Please direct any inquiries to the deputy clerk for Division Three at (415) 865-7295. McGuiness, P.J.

Tuesday, October 10, 2006 (continued)

Division Four

**A111643 – State Farm General Insurance Company v. Wells Fargo Bank, N.A., et al.**

The judgment is reversed. The matter is remanded for further proceedings consistent with this opinion. State Farm shall recover its costs on appeal. Sepulveda, J. I Concur: Rivera, J. (See concurring opinion by Ruvolo, P.J.) (Certified for Publication)

Wednesday, October 11, 2006

Division One

**A109762 – Gregory P. O’Keefe, Individually and as Administrator, etc. v. Ronald Daley et al.**

The judgment is reversed insofar as it rules that Ronald is indebted to the estate in the amount of \$114,197, and that this amount must be offset against his interest, as one of the heirs, in the estate assets. In all other respects the judgment is affirmed. The parties shall bear their own costs on appeal. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication)

**A111444 – Lance L. Ravella v. The McGraw-Hill Companies Inc.**

The trial court’s judgment is affirmed, except that the trial court’s award of prejudgment interest is vacated. The matter is remanded to the trial court solely for the purpose of calculating and awarding prejudgment interest in a manner consistent with this decision. Costs on appeal are awarded to Ravella. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication)

Division Two

**A109282 – Donald R. Eutenier v. Charles Kluge.**

The judgment is affirmed. Richman, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication)

**A112800 – The People v. Abdul Saheed.**

The judgment and sentence imposed are affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication)

Division Four

**A113867 – The People v. Jose Luis Alvarado.**

Judgment affirmed. Reardon, J. We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication)

**A112462 – The People v. Kenneth Vincent Gatchek, Jr.**

Accordingly, execution of sentence on appellant’s conviction of violating Vehicle Code section 23152, subdivision (b) is stayed pursuant to Penal Code section 654 and the abstract of judgment is ordered amended to reflect said stay. In all other respects, the judgment is affirmed. Reardon, J. We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication)

Wednesday, October 11, 2006 (continued)

Division Five

**A108062 – The People v. Ronald Leon Brock.**

The judgment is reversed. Simons, J. We Concur: Jones, P.J., Reardon, J.\* (Certified for Publication)

**A113839 – The People v. Gerardo Huerta.**

The judgment is affirmed. Bruiniers, J.\* We Concur: Simons, Acting P.J., Gemello, J. (Not for Publication)

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\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

\* Judge of the Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, October 12, 2006

Division Two

**A107538 and A108292 – Novartis Vaccines and Diagnostics, Inc., et al., v. Stop Huntingdon Animal Cruelty USA, Inc.**

The orders appealed from are affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Richman, J. (Certified for Publication)

Division Four

**A112070 – Theordora Spear v. Wells Fargo Bank, N.A. et al.**

The judgments dismissing respondents from appellant's action are affirmed. Ruvolo, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication)

Division Five

**A110861 – Renee Bernadou v. Costco Wholesaler Corporation et al.**

The judgment of dismissal is reversed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication)

**A108378 – In re the Marriage of Barbara Bryant Gotelli and Ron Latteri. Barbara Bryant Gotelli v. Ron Latteri.**

The judgment denying Mother child support arrearages is reversed and remanded with directions to calculate, insofar as possible, the outstanding amount and award them to Mother. In all other respects, the judgment is affirmed. Costs on appeal to Mother. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication)

**MINUTES**  
COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

DIVISION FIVE

October 12, 2006

Court convened at 9:00 a.m. at Mount Diablo High School at 2450 Grant Street, Concord, California. Present: Jones, P.J., Simons, J., and Gemello, J., Mary P. Quilez, Deputy Clerk and CHP Officer Erik Strecker, Bailiff.

A111600      The People  
                 v.  
                 David Windham  
Cause called and argued by David Coleman, counsel for appellant and by Rene A. Chacon, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A109650      The People  
                 v.  
                 Anthony Mark Bueno  
Cause called and argued by Randi Coven, counsel for appellant and Sharon Birenbaum, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

Court adjourned at 10:45 a.m.

Friday, October 13, 2006

Division Four

**A115004 – Jill M. v. The Superior Court of Contra Costa County; Contra Costa County Department of Social Services, R.P.I.**

The petition for extraordinary writ is denied on the merits. (§ 366.26, subd. (l)(1)(C); rule 38.1(h)(1); *In re Julie S.* (1996) 48 Cal.App.4<sup>th</sup> 988, 990-991.) Our decision is final immediately. (Rule 24(b)(3).) The request for stays of the October 17, 2006 and November 13, 2006, hearings are denied. Rivera, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication)



Monday, October 16, 2006

Division One

**A111521 – In re Rene C., a Person Coming Under the Juvenile Court Law. The People v. Rene C.**

The findings of the juvenile court are affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication)

**A107918 and A108822 – Lila Chee v. Amanda Goldt Property Management et al.**

The judgment and postjudgment order awarding fees are affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Certified for Publication)

Division Two

**A112835 – The People v. Salvador Torres.**

The judgment and sentence imposed are affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication)

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION TWO

Monday, October 16, 2006

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Lambden, J., Richman, J., Officer Ching and S. Wheeler, Deputy Clerk.

A109660 In Re Jeffrey David Elkins On Habeas Corpus.

Cause called and argued by Michael Satris, counsel for appellant, and Denise Yates, Deputy Attorney General, counsel for respondent. Submission deferred for one week.

A111423 Paul Lozada,  
v.

City and County of San Francisco, et al.

Cause called and argued by Philip Jeremy Kaplan, counsel for appellant, David Antony Carrillo, counsel for respondents, and Krista McNevin Jee, counsel for League of California Cities et al., amicus curiae for respondents. Cause ordered submitted.

A111274 Bernard Blair, et al.,  
v.

The City of Novato;  
Woodview Properties, LLC.

Cause called and argued by Robert Frank Knox, counsel for appellants, and James L. Meeder, counsel for respondents. Cause ordered submitted.

At this point of the proceedings, Justice Lambden left the bench and Justice Haerle joined the bench for the remainder of the calendar.

A110073 Geronia Quarles,  
v.

Advocate Mines, Limited.

Cause called and argued by Roy Garfield Weatherup, counsel for appellant, and Lloyd F. LeRoy, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Haerle, Acting P.J., Lambden, J.,

Richman, J., Officer Umeki and S. Wheeler, Deputy Clerk.

- A111460      The People,  
                 v.  
                 Victor Ray Crawford.  
Cause called and argued by John Francis McCabe II, counsel for appellant, and  
Peter E. Flores, Deputy Attorney General, counsel for respondent. Cause ordered  
submitted.
- A113357      Paul D. Stutrud,  
                 v.  
                 The City of Rohnert Park.  
Cause called and argued by John F. Hudson, counsel for appellant, and Kevin  
Drake Siegel, counsel for respondent. Cause ordered submitted.
- A111469      Dawn A. Clements.,  
                 v.  
                 Barry A. Mainardi.  
Cause called and argued by Howard Jonathan Berman, counsel for appellant, and  
Carol Anne Jasinski, counsel for respondent. Cause ordered submitted.
- A109310;      Loyal A. Davis,  
A110829;      v.  
A112432      Jennifer Ives.  
Cause called and argued by George Scott Emblidge, counsel for appellant, and  
Carla Felicia Boyd, counsel for respondent. Cause ordered submitted.

**COURT RECESSED UNTIL TUESDAY, OCTOBER 17, 2006 AT 9:30  
A.M.**

Monday, October 16, 2006 (continued)

Division Three

**A111813 – Jack Combs v. State Farm Fire & Casualty Company et al.**

The judgment is affirmed. Pollak, J. We Concur: McGuinness, P.J., Parrilli, J. (Certified for Publication)

Division Four

**A114694 – Dan C. v. The Superior Court of Humboldt County; Humboldt County Department of Health and Human Services, R.P.I.**

**A114792 – Dan C. v. The Superior Court of Humboldt County; Humboldt County Department of Health and Human Services, R.P.I.**

Let a peremptory writ of mandate issue directing the juvenile court to vacate the July 2006 order terminating the reunification period and setting a section 366.26 hearing for Michael H. The cause is hereby remanded for further proceedings in accordance with the directions set forth in this opinion. We deny petition A114792 on the merits. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication)

Monday, October 16, 2006 (continued)

Division Five

**A113257 – In re Rocky K., a Person Coming Under the Juvenile Court Law. The People v. Rocky K.**

The restitution order is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication)

**A111998 – In re L. S-H., a Person Coming Under the Juvenile Court Law. Alameda County Department of Children and Family Services v. Kali T. and Rashell S.**

The order terminating Mother's parental rights is vacated, and the matter is remanded to the juvenile court with directions to order social services agency to make proper inquiry and to comply with the notice provisions of the ICWA. If after proper inquiry and notice, the BIA or a tribe determines that the minors are Indian children as defined by the ICWA, the juvenile court is ordered to conduct a new section 366.26 hearing with respect to Mother's parental rights in conformity with all provisions of the ICWA. If, on the other hand, no response is received or the tribes and the BIA determine that the minors are not Indian children, all previous findings and orders shall be reinstated. In all other respects, the orders are affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication)

**A114802 – In re Victoria H., a Person Coming Under the Juvenile Court Law. Mark H. v. The Superior Court of the State of California, County of Contra Costa; Contra Costa County, Children and Family Services Bureau, R.P.I.**

The order to show cause is discharged, and the petition for extraordinary relief is denied on the merits. (Rule 38.1(i)(1).) Petitioner is barred in any subsequent appeal from making further challenges to the orders terminating reunification services and setting a hearing under section 366.26. (§ 366.26, subd. (I).) Because the section 366.26 hearing is set for October 31, 2006, our decision is final as to this court immediately. Jones, P.J. We Concur: Simons, J., Bruiniers, J.\* (Not for Publication)

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\* Judge of the Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, October 17, 2006

Division One

**A112298 – In re Jesus G., et al., Persons Coming Under the Juvenile Court Law. Humboldt County Department of Health & Human Services v. Nestor T.**

**A112436 – In re Jesus G., et al., Persons Coming Under the Juvenile Court Law. Humboldt County Department of Health & Human Services v. Juanita T.**

The order is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication)

**A112813 – Megan Golden, a Minor, etc. v. Todd J. Mickel et al.**

The summary judgment is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)

Division Two

**A112473 – Airs SFO, LLC, et al., v. City and County of San Francisco, et al.**

The order denying the City's motion to disqualify Duane Morris is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Richman, J. (Not for Publication)

**A114923 – Estate of Elsie N. Gridley, Deceased. Patricia Gridley et al., v. Michael A. Gridley et al.**

We grant respondents' motion to dismiss the appeal. We deny respondents' motion for sanctions. Respondents shall recover their costs on the motion to dismiss the appeal. Kline, P.J. We Concur: Haerle, J., Richman, J. (Not for Publication)

**A111626 – The People v. Larone Hutcherson.**

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication)

Tuesday, October 17, 2006 (continued)

Division Three

**A109367 – 2130 Leavenworth Homeowners Association v. State Farm Insurance Company, et al.**

By the Court: The petition for rehearing is denied. McGuiness, P.J.

**A111598 – The People v. Marc Allen Watkin.**

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication)

**A108176 – Kimberly Robinzine et al., v. Janet Vicory et al.**

The order denying defendants' special motion to strike the malicious prosecution cause of action is reversed. The matter is remanded to the trial court with directions to enter a dismissal as to the malicious prosecution cause of action, to determine costs and attorney fees, and for further proceedings consistent with this opinion. Siggins, J. We Concur: Parrilli, Acting P.J., Pollak, J. (Certified for Partial Publication)

Division Five

**A112478 – The People v. Santese Edwards.**

The appeal is dismissed. Gemello, J. We Concur: Jones, P.J., Bruiniers, J.\* (Not for Publication)

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\* Judge of the Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, October 18, 2006

Division One

**A111421 – Sheila M. Weber, Individually and as Successor in Interest v. John Crane, Inc.**

The judgment is reversed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Certified for Publication)

**A111719 – Valley of the Moon Alliance v. County of Sonoma et al.  
-- Graywood Ranch LP, R.P.I.**

The judgment denying the petition for writ of mandate is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication)

**A109671 – The People v. Victor Samuel Davis.**

The judgment is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)

Division Two

**A111469 – Dawn A. Clements v. Barry A. Mainardi.**

The order denying the motion to set aside the judgment is affirmed. Clements is to pay the costs of appeal. Lambden, J. We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication)

**A109848 – The People v. Michael Gayle Blythe.**

By the Court: It is ordered that the opinion filed herein on September 28, 2006, be modified as follows: (See Order) This modification does not effect a change in the judgment. The petition for rehearing is denied. Haerle, Acting P.J. (Not for Publication)

**A108621 – Oliver Willmer v. Katina Willmer.**

The order is affirmed. Ruvolo, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication)

**A112718 – In re Gaven C., a Person Coming Under the Juvenile Court Law. Contra Costa County Children and Family Services Bureau v. Dominique C.**

The order terminating parental rights is affirmed. Richman, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication)



Wednesday, October 18, 2006 (continued)

Division Three

**A109288 and A110061 – Macy’s Department Stores, Inc., et al., v. City and County of San Francisco.**

The judgment awarding a refund of all taxes paid by Macy’s is reversed, and the case is remanded with directions to enter judgment in an amount sufficient to remedy any potential discriminatory burden imposed by the City’s prior tandem tax from 1995 through 1999. The case is also remanded for reconsideration of the award of costs in the trial court. Each party shall bear its own costs on appeal. Siggins, J. We Concur: Parrilli, Acting P.J., Pollak, J. (Certified for Publication)

**A112662 – The People v. Walter A. Chavez.**

The judgment is affirmed. Parrilli, J. We Concur: McGuinness, P.J., Siggins, J. (Not for Publication)

Division Five

**A112554 – The People v. Raul Sanchez.**

There are no arguable issues. The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication)

Thursday, October 19, 2006

Division Three

**A109157 – The People v. Martin Mesa, Jr.**

The judgment is reversed and the matter remanded for resentencing. McGuiness, P.J.  
We Concur: Pollak, J., Siggins, J. (Not for Publication)

**A111993 – The People v. Julius Lee Jackson.**

The appeal is dismissed. McGuiness, P.J. We Concur: Parrilli, J., Siggins, J. (Not for Publication)

**A110353 – The People v. Jose Anthony Gomez.**

The abstract of judgment is ordered amended to replace the two instances of “M” in the “term” column with “L,” thus reflecting that Gomez was sentenced to the lower terms on counts I and IV. In all other respects, the judgment is affirmed. McGuiness, P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication)

**A109146 – The People v. Mauricio Cuevas.**

**A112404 – In Re Mauricio Cuevas, on Habeas Corpus.**

The judgment is affirmed, and Cuevas’s petition for writ of habeas corpus is denied. McGuiness, P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication)

**A108283 and A108284 – Suzan Hughes, as Guardian, etc. v. Jack Reynolds, as Cotrustee, etc., et al.**

By the Court: The petition for rehearing is denied. Since this court’s September 20, 2006 opinion does not meet the standard for publication as forth in rule 976(b) of the California Rules of Court, the request for publication is denied. Pursuant to rule 978(a) of the California Rules of Court, the Clerk is directed to forward to the Clerk of the Supreme Court the request for publication, the opinion, and a copy of this order. McGuiness, P.J.

**A109497 – Estate of Mark R. Hughes, Deceased. Conrad Lee Klein, et al., v. Suzan Hughes, as Guardian etc.**

By the Court: The petition for rehearing is denied. McGuiness, P.J.

**A108852 – The People v. Jose Alfredo Delgado.**

The judgment is affirmed. McGuiness, P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication)

**A109214 – The People v. Antonio Hernandez.**

The judgment is affirmed. McGuiness, P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication)

Thursday, October 19, 2006 (continued)

Division Four

**A113200 – The People v. Deana Pena.**

The judgment is affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication)

**A114459 – In Re D.S., a Person Coming Under the Juvenile Court Law. The People v. D.S.**

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication)

**A110899 – In Re Anthony A., a Person Coming Under the Juvenile Court Law. Sonoma County Human Services Department v. Traci A.**

We affirm the orders denying the section 388 petition, terminating mother's parental rights and freeing Anthony for adoption. Reardon, J. We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication)

**A110716 – Gerald Whaley v. Trailer Haven.**

The judgment is affirmed. Ruvolo, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication)

Division Five

**A113868 – The People v. Maurice Guice.**

The judgment is affirmed. Jones, P.J. We Concur: Gemello, J., Bruiniers, J.\* (Not for Publication)

**A109650 – The People v. Anthony M. Bueno.**

The trial court finding that defendant's 1996 conviction for battery constitutes a serious felony within the meaning of the three strikes law is reversed. The judgment is otherwise affirmed. The cause is remanded to the trial court for resentencing or, at the prosecution's election, retrial of the prior battery conviction. Gemello, J. We Concur: Jones, P.J., Simons, J. (Certified for Partial Publication)

**A110182 – Sharon Chiu et al., v. Collectronics, Inc.**

The order denying the motion to strike is reversed, and the matter is remanded for further proceedings consistent with this opinion. Bruiniers, J.\* We Concur: Jones, P.J., Gemello, J. (Not for Publication)

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\* Judge of the Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, October 20, 2006

Division Three

**A115248 – The People v. The Superior Court of Sonoma County; Michael James Bloom, R.P.I.**

Let a peremptory writ of mandate issue commanding respondent superior court to vacate its order dismissing the charge of attempted first degree murder against real party in interest Michael James Bloom and to enter a new order reinstating the charge. This decision is final as to this court immediately. (Cal. Rules of Court, rule 24(b)(3).) Siggins, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication)

**A109500 – In Re the Marriage of Regina H. Clarke-Katzenberg and Daniel R. Katzenberg. Regina H. Clarke-Katzenberg v. Daniel R. Katzenberg.**

The judgment of dissolution is affirmed. Each party to bear costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication)

Division Four

**A111628 – The People v. John Leroy Clemons.**

By the Court: The petition for rehearing is denied. Ruvolo, P.J.

**A108089 – The People v. Marcus Anthony Moore.**

By the Court: The petition for rehearing is denied. Ruvolo, P.J.

**A112649 – The People v. Ronald E. Brown.**

By the Court: The petition for rehearing is denied. Ruvolo, P.J.

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\* Judge of the Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, October 20, 2006 (continued)

Division Five

**A110881 – The People v. David Cooper.**

The judgment of conviction is affirmed. The request for judicial notice is granted.  
Bruiniers, J.\* We Concur: Jones, P.J., Gemello, J. (Not for Publication)

**A111695 – The People v. Paul Robert Green.**

Defendant's sentence is affirmed. Simons, Acting P.J. We Concur: Gemello, J.,  
Bruiniers, J.\* (Not for Publication)

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\* Judge of the Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

\* Judge of the Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Monday, October 23, 2006

Division One

**A111997 – In Re Michael H., a Person Coming Under the Juvenile Court Law.  
Contra Costa County Children and Family Services Bureau v. Carolyn H. et al.**

The order of November 7, 2005, is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)

Division Two

**A113931 – The People v. Emiliano R. Quintana.**

The judgment of conviction is affirmed. Richman, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication)

Division Four

**A111797 – The People v. Marco Antonio Arcos Lopez.**

The judgment is affirmed. Ruvolo, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication)

**A110724 – The People v. Michael Francis Pegram.**

The judgment is affirmed. Ruvolo, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication)

Tuesday, October 24, 2006

Division One

**A110193 – The People v. Ryan Earl Brooks.**

The judgment of the trial court is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication)

Division Two

**A109660 – Michael A. Newdow v. Austin Miles.**

The order appealed from is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication)

**A114044 – In Re Phillip J., a Person Coming Under the Juvenile Court Law. The People v. Phillip J.**

Our independent review having found no arguable issues that require briefing, the judgment of conviction is affirmed. Richman, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication)

Tuesday, October 24, 2006 (continued)

Division Three

**A108586 – The People v. Marcel Love.**

The judgments are affirmed. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication)

**A110151 – The People v. Orlando Pubill.**

The judgment is affirmed. Pollak, J. We Concur: Parrilli, Acting P.J., Siggins, J. (Not for Publication)

**A111494 – The People v. David Anthony Solomon.**

The matter is reversed and remanded to the trial court with directions to order a probation report and hold a new sentencing hearing. Siggins, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication)

**A114791 – Patricia L. v. The Superior Court of Del Norte County; Del Norte County Department of Health and Social Services; R.P.I.**

The petition is denied on the merits. (§366.26, subd. (l)(1)(C); Cal. Rules of Court, rule 38.1(i)(1); see Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4<sup>th</sup> 888, 894.) Our decision is final immediately. (Cal. Rules of Court, rule 24(b)(3).) McGuiness, P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication)

Division Four

**A111491 – The People v. Bradley Dean Bayan.**

The judgment as to count one, violation of section 422, is reversed. In all other respects, the judgment is affirmed. The matter is remanded for resentencing. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication)



MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Tuesday, October 24, 2006

The Court convened at 9:39 a.m. in its courtroom located at 350 McAllister St. San Francisco, California. Present: Ruvolo, P.J., Sepulveda, J., and Rivera, J. I. Calanoc, Deputy Clerk; CHP Officer Javier Rocha, Bailiff.

- A112553     Alexander Cooper,  
                 v.  
                 Veronica Khrankina.  
Cause called. Appellant Alexander Cooper argued in pro per. Respondent Veronica Khrankina argued in pro per. Cause submitted.
- A110857     Mark Ottovich,  
                 v.  
                 City of Freemont.  
Cause called. Gary Kaplan argued for appellant Mark Ottovich. Gregory Fox argued for respondent. Cause submitted.
- A111501     Yupa Assawasuksant,  
                 v.  
                 James Heirele.  
Cause called. Lance Russell argued for appellant Yupa Assawasuksant. Kathleen McKinley argued for respondent. Cause submitted.

At this point, the Court reconstituted itself to include Reardon, Acting P.J., Sepulveda, J., and Rivera, J.

- A112762     The People,  
                 v.  
                 James J.  
Cause called. Kathryn Seligman argued for appellant James J. Ronald Niver argued for respondent. Cause submitted.
- A112724     John Shevchuk,  
                 v.  
                 The Workers' Compensation  
                 Appeals Board,;  
                 United Airlines.  
Cause called. Susan Borg argued for petitioner John Shevchuk. Lawrence Kirk argued for respondents. David Froba argued as amicus curiae for appellant. Cause submitted.

A107873

The People,

v.

Thomas George Carson.

Cause called. Richard Such argued for appellant Thomas Carson. John Vance argued for respondent. Cause submitted.

Court recessed at 11:33 a.m.

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR

Tuesday, October 24, 2006

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4<sup>th</sup> Floor, San Francisco. Present: Ruvolo, P.J., Reardon, J., and Sepulveda, J.; Channing Hoo, Deputy Clerk; CHP Officer Aron Ching, Bailiff.

- A113722     Maura Burche  
              v.  
              James Maddux et al.  
Cause called. Repeated attempts to reach appellant Maura Burche by telephone For telecon were unsuccessful. Cause submitted.
- A112693     Anthony Rideau  
              v.  
              Roger A. Taylor et al.  
Cause called. Berehanu Challa argued for appellant Rideau. Michael Johnson argued for respondents. Cause submitted.
- A111689     People  
              v.  
              Joseph Everett Johnson, Jr.  
Cause called. John J. Jordan argued for appellant Johnson. Sara Turner argued for respondent. Cause submitted.

Court adjourned at 2:02 p.m.

Division Five

**A109378 – The People v. Troy Dominic Mabon.**

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication)

Wednesday, October 25, 2006

Division One

**A110860 – The People of the State of California v. Steven Bakker.**

The minute order of June 22, 2005, is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication)

**A113847 – In re Mario R., a Person Coming Under the Juvenile Court Law. The People v. Mario R.**

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication)

Division Two

**A111738 – The People v. Van McDuffie.**

The court's order authorizing the involuntary administration of antipsychotic medication to defendant is reversed. Haerle, J. We Concur: Kline, P.J., Richman, J. (Not for Publication)

**A108538 – The People v. Durelle Crawford.**

The judgment is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication)

Wednesday, October 25, 2006 (continued)

Division Three

**A113661 – In re M.D., a Person Coming Under the Juvenile Court Law. Contra Costa County Children & Family Services Bureau v. R.D.**

The orders of the trial court are affirmed. Siggins, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication)

**A114615 – The People v. Romale Johnson.**

The judgment is affirmed. Siggins, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication)

**A111983 and A112770 – Conservatorship of the Estate of Elizabeth G. Jamerson. James Lane, as Conservator, etc., et al., v. U.S. Bank National Association.**

**A112770 – Conservatorship of the Estate of Elizabeth G. Jamerson. Investment Properties exchange Services, Inc. v. James Lane, as Conservator, etc., et al.; U.S. Bank National Association, Defendant and Appellant.**

The appeal is dismissed as moot. The conservators' request for sanctions is denied. The conservators shall recover their costs on appeal. Pollak, J. We Concur: McGuiness, P.J., Siggins, J. (Not for Publication)

**A112721 – In re K.T. et al., Persons Coming Under the Juvenile Court Law. Contra Costa County Children & Family Services Department v. Mauricio T.**

**A113225 – In re K.H. et al., Persons Coming Under the Juvenile Court Law. Contra Costa County Children & Family Services Department v. Star M.**

The order terminating parental rights is affirmed. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication)

Division Four

**A113845 – In re Joshua J., a Person Coming Under the Juvenile Court Law. The People v. Joshua J.**

The dispositional order is affirmed. Rivera, J. We Concur: Ruvalo, P.J., Reardon, J. (Not for Publication)

Thursday, October 26, 2006

Division One

**A113664 – In re Jorge G., a Person Coming Under the Juvenile Court Law. The People v. Jorge G.**

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication)

Division Two

**A111335 – Madeleine Heffel v. Presley Homes, Inc.**

The orders appealed from are affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Richman, J. (Not for Publication)

Division Three

**A115076 – The People v. Alberto Lorenzo Ubau.**

**A115581 – In re Alberto Lorenzo Ubau, on Habeas Corpus.**

By the Court: At petitioner's request, the petition for writ of habeas corpus, *In re Ubau*, A115581, is consolidated with the appeal in *People v. Ubau*, A115076. This court's consideration of the request for judicial notice and this court's determination of whether to issue an order to show cause will be deferred until the issues on the appeal have been considered. The Attorney General is directed to furnish opposition to the petition on or before the date of filing of the respondent's brief in A115076. Petitioner's response, if any, must be filed on or before the date of filing of the appellant's reply brief in A115076. Please direct any inquiries to the Deputy Clerk for Division Three at (415) 865 – 7295. McGuiness, P.J.

Thursday, October 26, 2006 (continued)

Division Four

**A112823 – The People v. Glen Foster Green.**

The judgment is affirmed. Ruvolo, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication)

**A112681 – In re Darnell C., a Person Coming Under the Juvenile Court Law. The People v. Darnell C.**

The disposition is affirmed. The case is remanded to calculate predisposition custody credits, and to increase appellant's precommitment custody credits from 122 days to 127 days. Ruvolo, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication)

Division Five

**A110843 – The people v. Alfred Randell Everett.**

The conviction on count 3 is reversed and the matter remanded for further proceedings. Simons, Acting P.J. We Concur: Gemello, J., Bruiniers, J.\* (Not for Publication)

**A109650 – The People v. Anthony M. Bueno.**

By the Court: The opinion filed October 19, 2002 is modified to correct the identity of the Napa County Superior Court trial judge. The trial judge was the Hon. Francisco P. Tischer. The modification does not affect the judgment. Jones, P.J. (Certified for Partial Publication)

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\* Judge of the Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, October 27, 2006

Division One

**A112711 – In re DéAntray R., a Person Coming Under the Juvenile Court Law.  
The People v. DéAntray R.**

The present case present the identical situation. The rationale of *James J.* dictates dismissal. Accordingly, we hereby dismiss this appeal. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication)

Division Two

**A112536 – Air Systems Acquisition, Inc. v. Gilbane Building Co. et al.**

The judgment is affirmed. Air Systems Acquisition is awarded the costs of appeal. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication)

**A111085 – Metawave Communications Corporation v. St. Paul Fire & Marine Insurance Company et al.**

The judgment is affirmed and Metawave is to pay the costs of appeal. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication)

Division Three

**A109403 – The People v. Cory Jenkins.**

The judgment is affirmed. Parrilli, Acting P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication)

Division Four

**A112683 – The People v. Francisco Javier Perez-Reyes.**

The judgment is affirmed. Ruvolo, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication)



Friday, October 27, 2006 (continued)

Division Five

**A108295 and A110112 – John Zimmerman et al., v. National Life Insurance Company et al.**

**John Zimmerman et al., v. Apolinar Alvarez et al.**

The judgments are affirmed. Jones, P.J. We Concur: Simons, J., Bruiniers, J.\* (Not for Publication)

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\* Judge of the Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Monday, October 30, 2006

Division One

**A112948 – The People v. Rodolfo Javier Flores-Contreras.**

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication)

**A113015 – The People v. Ruben A. Lopez.**

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication)

Division Three

**A111424 – Edward A. Hume et al., v. Edward D. Hume.**

The postjudgment orders filed April 12, 2005, July 20, 2005 and August 18, 2005, are affirmed. Defendant's appeal from an order expunging a lis pendens is dismissed. Siggins, J. We Concur: Parrilli, Acting P.J., Pollak, J. (Not for Publication)

**A111699 – In re Lorenzo G., a Person Coming Under the Juvenile Court Law. Lake County Department of Social Services v. Parish G.**

The October 3, 2005, orders are affirmed. McGuinness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication)

Monday, October 30, 2006 (continued)

Division Four

**A113724 – The People v. Martin Burke.**

The judgment is affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication)

**A110857 – Mark Ottovich v. City of Fremont et al.**

The order is affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication)

**A112693 – Anthony Rideau v. Roger A. Taylor et al.**

The judgment is affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication)

**A111689 – The People v. Joseph Everett Johnson, Jr.**

Under principles of stare decisis, we are bound by *Black* and find no error in defendant's sentencing. (*Auto Equity Sales, Inc. v. Superior Court* (1962) 57 Cal.2d 450, 455.) Sepulveda, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication)

**A111501 – In re the Marriage of James Heierle and Yupa Assa Wasuksant. James Heierle v. Yupa Assa Wasuksant.**

The judgment is affirmed. James is entitled to his costs on appeal, in an amount to be determined by the trial court. Sepulveda, J. We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication)

Division Five

**A113005 – In re Jessica W., et al., Persons Coming Under the Juvenile Court Law. Mendocino County Department of Social Services v. Jeremy W., et al.**

The order denying Appellants de facto parent status is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication)

Tuesday, October 31, 2006

Division One

**A109595 – In re the Marriage of Jeffrey Bokor and Betty Ann Harrison. Jeffrey Bokor v. Betty Ann Harrison.**

The order granting Mr. Bokor sole legal custody as to certain issues, and awarding sanctions pursuant to Family Code section 271, is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication)

**A113125 – The People v. Donald Cornell Capers.**

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication)

**A111731 – Carole Dawn Maloney et al., v. City of San Rafael et al.**

The summary judgments are affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication)

**A112386 – J. Dennis Wolfe v. City of Fremont et al.**

The trial court's judgment as to defendants Diaz and Steckler is affirmed. The trial court's judgment regarding Defendants City, City Council, and the individual members of the City Council is reversed, and the matter is remanded for further proceedings regarding these defendants consistent with this decision. The parties shall bear their own costs on appeal. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Certified for Publication)

**A111910 – In re Miranda H., a Person Coming Under the Juvenile Court Law. Marin County Department of Health & Human Services v. Lori R.**

The jurisdictional finding is affirmed. Appellant's appeal regarding the dispositional order is dismissed as moot. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication)

Division Two

**A111925 – In re Jeffrey David Elkins, on Habeas Corpus.**

The Governor's decision reversing the Board decision grating Elkins parole is vacated. Elkins's petition for habeas corpus is granted. The Board is ordered to release Elkins forthwith pursuant to the set conditions set forth in its decision of March 4, 2005. Considering that release by the Board would have been final on June 30, 2005, over a year ago, and in the interests of justice, this opinion shall be final as to this court immediately. (Cal. Rules of Court, rule 24(b)(3).) Kline, P.J. We Concur: Lambden, J., Richman, J. (Certified for Publication)

Tuesday, October 31, 2006 (continued)

Division Three

**A108381 – Kevin L. Howard v. Third and Mission Associates, LLC, et al.**

The appeal by defendant Charles Pankow Builders, Ltd. doing business as Pankow Company Builder is dismissed. The appeals from the judgment filed September 9, 2004, and the denial of the motion for a new trial are dismissed. The amended judgment filed on October 25, 2004, is affirmed. Respondent is awarded costs on appeal. Siggins, J. We Concur: Parrilli, Acting P.J., Pollak, J. (Not for Publication)

**A111841 – David M. Cooney v. Teresa B. Cooney.**

The restraining order issued in this case is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication)

**A110658 – The People v. Myron Anthony Watkins.**

The convictions for driving with a suspended license and false representation of identity of a peace officer are reversed and the matter is remanded for further proceedings regarding those charges. In all other respects, the judgment is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication)

**A113255 – In re Jessie L., et al., Persons Coming Under the Juvenile Court Law. Solano County Social Services Agency v. Misty J.**

The January 31, 2006, juvenile court orders are reversed, subject to reinstatement upon a determination that ICWA is inapplicable after the notice requirements of ICWA have been satisfied. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication)

**A114855 – Rental Housing Association of Northern Alameda County, et al., v. City of Oakland; Jacqueline Howell, et al.; Interveners and Respondents.**

**A114919 – Kun Sam Kim, et al., v. City of Oakland; Jacqueline Howell, et al.; Interveners and Appellants.**

By the Court: Upon the parties' stipulation, and good cause appearing, it is ordered that the appeals in docket numbers A114855 and A114919 shall be consolidated for purposes of briefing, oral argument (if any) and decision. Counsel for all parties are directed to list both appellate case numbers on all future pleadings. Reporter's transcripts previously filed in connection with A114149 shall be considered in connection with both appeals. Pursuant to the parties' stipulation, the appellants' opening briefs in both appeals shall be due on December 22, 2006, respondents' briefs shall be due 60 days after filing of the appellants' opening briefs, and appellants' reply briefs shall be due 60 days after filing of the respondents' briefs. (Cal. Rules of Court, rule 15(b)(1).) Any extensions of these deadlines shall be upon application to the court and for good cause shown. (Cal. Rules of Court, rule 15(b)(2), 17(d).) McGuiness, P.J.

Tuesday, October 31, 2006 (continued)

Division Four

**A110370 – The People v. Maurice Poindexter.**

The judgment is affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Rivera, J. (Certified for Partial Publication)

**A113453 – Arnold Kemp v. Steven Wolff.**

The order is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication)

Division Five

**A109424 – The People v. Karlene Rose Gambill.**

The portion of the order granting probation that requires appellant to pay the costs of probation is vacated. The case is remanded to the trial court to determine probation-related costs pursuant to the directives of section 1203.1b. In all other respects, the judgment of conviction is affirmed. Jones, P.J. We Concur: Gemello, J., Bruiniers, J.\* (Not for Publication)

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\* Judge of the Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.